

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.911/2024

Muhammad Haris s/o Alif Gul,
ex-Carpenter Cooly BPS-03, Resident

..... **Appellant**

Versus

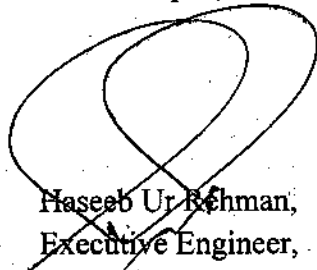
The Government of Khyber Pakhtunkhwa
through Secretary, C&W Department, Peshawar and others

Respondents

INDEX

S.NO	DESCRIPTION OF DOCUMENTS	ANNEXURE	PAGE
1	Parawise Comments on behalf of Respondent No.1 to 4	-	1-3
2	Affidavit	-	4
3	Authority Letter	-	5
4	Copy of XEN C&W Build. Div. Mardan letter No. 2728/6E dated 07/04/2023	I	6
5	Copy of XEN C&W Build. Div. Mardan letter No. 2743/6-E dated 12/04/2023	II	7
6	Copy of XEN C&W Build. Div. Mardan letter No. 2775/6-E dated 27/04/2023	III	8
7	Copy of XEN C&W Build. Div. Mardan letter No. 2887/6-E dated 30/05/2023	IV	9-10
8	Copy of Source	V	11
9	Copy of Newspaper Advertisement	VI	12-13
10	Copy of XEN C&W Build. Div. Mardan office order No. 808/4-E dated 25/03/2024	VII	14
11	Copy of Superintending Engineer C&W Circle Mardan letter No. 1813/11-B dated 21/05/2024	VIII	15

Deponent


Haseeb Ur Rehman,
Executive Engineer,
C&W Building Division Mardan
(Respondent No.3).

(1)

BEFORE THE KHYBER PAKHTUNKHWA
SERVICE TRIBUNAL PESHAWAR

Khyber Pakhtunkhwa
Service Tribunal

Service Appeal No.911/2024

Diary No. 17594

Dated 05-11-24

Muhammad Haris s/o AlifGul,
ex-Carpenter Cooly BPS-03, Resident

.....

Appellant

Versus

The Government of Khyber Pakhtunkhwa
through Secretary, C&W Department, Peshawar and others

Respondents

PARAWISE COMMENTS ON BEHALF OF RESPONDENTS NO. 1 TO 4

Respectfully Sheweth

Preliminary Objections

1. That the appellant has no cause of action.
2. That the appeal is incompetent and not maintainable in its present form.
3. That the appellant is stopped by his own conduct to bring the present appeal.
4. That the appellant has no locus standi.

FACTS

- I. Pertains to record.
- II. Pertains to record. However the information about his mother being ill etc., though immaterial to the matter at hand, was never conveyed to his superiors by any means.
- III. The appellant was habitual absentee. In this regard several notices dated 07/04/2023, 12/04/2023, 27/04/2023 and 30/05/2023 were issued to the appellant i.e. opportunities to attend his position of duty (**Annexure I to IV**). It was only after these notices that his pay was stopped in July 2023 (**Annexure-V**). Even after stoppage of pay the Appellant failed to attend to his duty or to provide any information/explanation with regards to the reasons for his absence. Finally, an advertisement to this effect, as laid down in the procedure, was also given in the newspaper on 09/03/2024 (**Annex-VI**). Resultantly major penalty i.e. "Removal from Service" was imposed upon the appellant vide Executive Engineer C&W Building Division Mardan Office Order No.808/4-E dated 25/03/2024 (**Annex-VII**).

- IV. The Departmental Appeal of the appellant was received on 19/04/2024 which was processed. However the same was regretted by the Superintending Engineer C&W Circle Mardan vide letter No.1813/11-B dated 21/05/2024 (Annex-VIII).
- V. As explained in Para-IV above.
- VI. No Comments.

GROUND

- 1. Incorrect. As explained in above Paras of the facts above.
- 2. Incorrect. The Appellant was provided ample opportunity to refute the allegations and prove his innocence by appearing at his position of duty. He was further afforded an appeal against his removal from service which he has utilized.
- 3. Incorrect. As explained in above Paras of the facts above. The instant case did not necessitate a formal inquiry proceedings as the Competent Authority Furthermore, the Khyber Pakhtunkhwa Efficiency and Disciplinary Rules 2011 Section 5 (b) ii, states
*“A Government servant is or has been absent from duty without prior approval of leave
 Provided that the competent authority may dispense with the inquiry where it is in possession of sufficient documentary evidence against the accused or, for reasons to be recorded in writing, it is satisfied that there is no need to hold an inquiry”*
- 4. Incorrect. The instant matter has been conducted strictly in accordance with the KP E&D Rules 2011.
- 5. Incorrect. As explained in Para-3 above.
- 6. Incorrect. As explained in above Paras of the facts above.
- 7. Incorrect. As explained in Para-III of the facts above.
- 8. Incorrect. As explained in above Paras of the facts above.
- 9. Incorrect. Pertains to record.
- 10. The respondents would like to seek permission of this Hon'ble Tribunal to advance more grounds during the time of arguments.

In view of the above, it is submitted that the Appeal is mis-conceived at this stage, hence may please be dismissed.

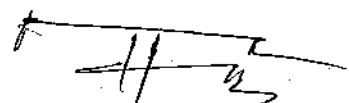

SECRETARY

to Govt of Khyber Pakhtunkhwa

C&W Department,

(Respondents No. 1)

MUHAMMAD ISRAR


Superintending Engineer

C&W Circle Mardan

(Respondent No.3)

IMRAN HUSSAIN


CHIEF ENGINEER (CENTER)

Khyber Pakhtunkhwa

C&W Department

(Respondent No.2)

JAMSAID ALI KHAN


Executive Engineer

C&W Building Division Mardan

(Respondent No.4)

HASEEB-UR-REHMAN

4

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL PESHAWAR

Service Appeal No.911/2024

Muhammad Haris s/o AlifGul,
ex-Carpenter Cooly BPS-03, Resident

.....

Appellant

Versus

The Government of Khyber Pakhtunkhwa
through Secretary, C&W Department, Peshawar and others

Respondents

AFFIDAVIT

I, Haseeb ur Rehman, Executive Engineer C&W Building Division Mardan (Respondent No.3) hereby affirm and declare that all the contents of the Parawise comments are correct to the best of my knowledge and belief and nothing has been concealed.

It is further stated on oath that in this appeal, the answering respondent neither has been placed ex-party nor their defence has been struck off.



Deponent

Haseeb Ur Rehman,
Executive Engineer,
C&W Building Division Mardan
(Respondent No.3)

05 NOV 2024

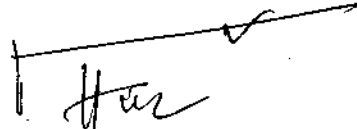
5



**OFFICE OF THE SUPERINTENDING ENGINEER
C&W CIRCLE MARDAN**

AUTHORITY LETTER

Mr. Haseeb ur Rehman, Executive Engineer C&W Building Division Mardan is hereby authorized to file Parawise Comments in case titled "Service Appeal No 911 Of 2024 – Muhammad Haris Vs Govt of Khyber Pakhtunkhwa Through Secretary C&W Peshawar and others"


**Superintending Engineer
C&W Circle Mardan
(Respondent No.2)**



Annex-I
**OFFICE OF THE EXECUTIVE ENGINEER
C&W BUILDING DIVISION MARDAN**

Phone No. 0937-9230668 | Fax No. 0937-9230558
Email Address: cwmdnb2013@gmail.com

(6)

No. 2728/16/F
To,

Dated Mardan 7/04/2023

1. Mr. Haris, Carpenter Cooli,
2. Mr. Kashif, Naib Qasid,
3. Mr. Bilal, Dafadar,
4. Mr. Luqman Hakeem, Naib Qasid,
C&W Building Division, Mardan.

SUBJECT: EXPLANATION.

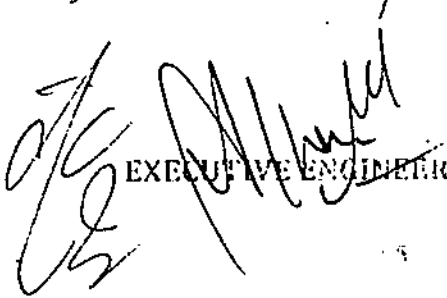
It is regretted to say that you have been absent from government duty since long without any prior permission of the undersigned.

You are hereby directed to explain your position for being absent without permission within 3 days positively, failing which disciplinary action will be taken against you under E&D Rules.

EXECUTIVE ENGINEER

Copy to the:

1. Superintending Engineer C&W Circle Mardan for information please.
2. Divisional Accounts Officer (Local) for information and necessary action.


EXECUTIVE ENGINEER

Attested




OFFICE OF THE EXECUTIVE ENGINEER
C&W BUILDING DIVISION MARDAN

Phone No. 0937-9230668 | Fax No. 0937-9230558
Email Address: cwmdnb2013@gmail.com

Annex-II

7

No. 2743/6-E

Dated Mardan 12/4/2023

To,

1. Mr. Haris, Carpenter Cooli,
2. Mr. Kashif, Naib Qasid,
3. Mr. Bilal, Dafadar,
4. Mr. Luqman Hakeem, Naib Qasid,
C&W Building Division, Mardan.

SUBJECT: ABSENT FROM DUTY.

Reference: This office letter No. 2728/6-E dated 07-04-2023.

It is regretted to say that you have been absent from government duty since long without any prior permission of the undersigned.

You are hereby directed to explain your position for being absent without permission within 3 days positively, failing which disciplinary action will be taken against you under E&D Rules.


EXECUTIVE ENGINEER

Copy to the:

1. Superintending Engineer C&W Circle Mardan for information please.
2. Divisional Accounts Officer (Local) for information and necessary action.


EXECUTIVE ENGINEER



OFFICE OF THE EXECUTIVE ENGINEER
C&W BUILDING DIVISION MARDAN

Phone No. 0937-9230668 | Fax No. 0937-9230558
Email Address: cwmdnb2013@gmail.com

Annex-III

(8)

No. 2775/6-E

Dated Mardan 27/4 /2023

To,

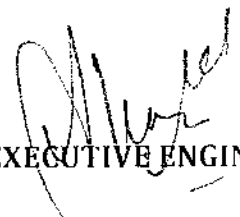
1. Mr. Haris, Carpenter Cooli,
2. Mr. Kashif, Naib Qasid,
3. Mr. Bilal, Dafadar,
4. Mr. Luqman Hakeem, Naib Qasid,
C&W Building Division, Mardan.

SUBJECT: ABSENT FROM DUTY.

Reference: This office letter No. 2728/6-E dated 07-04-2023.
This office letter No. 2743/6-E dated 12-04-2023.

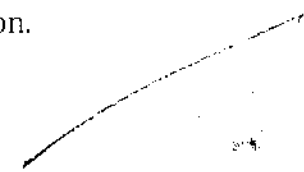
It is regretted to say that you have been absent from government duty since long without any prior permission of the undersigned.

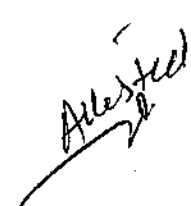
You are hereby directed to explain your position for being absent without permission within 3 days positively, failing which disciplinary action will be taken against you under E&D Rules.


EXECUTIVE ENGINEER

Copy to the:

1. Superintending Engineer C&W Circle Mardan for information please.
2. Divisional Accounts Officer (Local) for information and necessary action.


EXECUTIVE ENGINEER





OFFICE OF THE EXECUTIVE ENGINEER
C&W BUILDING DIVISION MARDAN

Phone No. 0937-9230668 | Fax No. 0937-9230558

Email Address: cwmdnb2013@gmail.com

Annex-10 (9)
FINAL SHOW
CAUSE NOTICE

No 2887 / 6-E

Dated Mardan 30/5 /2023

To,

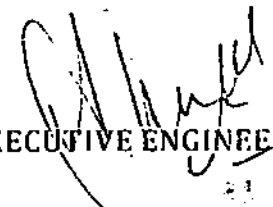
1. Mr. Haris, Carpenter Cooli,
2. Mr. Kashif, Naib Qasid,
3. Mr. Bilal, Dafadar;
4. Mr. Luqman Hakeem, Naib Qasid,
C&W Building Division, Mardan.

SUBJECT: ABSENT FROM DUTY.

Reference: This office letter No. 2728/6-E dated 07-04-2023.
This office letter No. 2743/6-E dated 12-04-2023.
This office letter No. 2775/6-E dated 27-04-2023.

It is regretted to say that you have been absent from government duty since long without any prior permission of the undersigned vide above notices were issued to you but all in vain.

You are hereby finally directed to attend office duty within three days positively otherwise necessary disciplinary action will be taken against you under the E&D Rules.


EXECUTIVE ENGINEER

Copy to the:

1. Superintending Engineer C&W Circle Mardan for information please.
2. Divisional Accounts Officer (Local). Several notices were issued to the above officials to attend this office but till date the above officials absent from government duty since long, therefore their pay may be stopped.


EXECUTIVE ENGINEER

Admitted


10

No. 574

For Rs. RGL117182658

Rs. 50
OPSS

Annex-IV

10

Station _____
in case of
uninsured letters of not more than
the initial weight prescribed in the
Post Office Guide or on which no
acknowledgement is due.

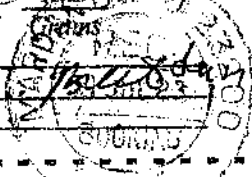
Received: registered*
addressed in Alif Cawl

Date-Stamp

*Write here "letter", "postcard", "packet" or "parcel"
with the word "insured" before it when necessary.
Initials of Receiving Officer MS
Insured to the order of MS (in words)

If insured.

Basic weight 200gms
Insurance fee Rs. _____ Ps. _____ (in words)
Name and address of sender MS



Handwritten signature or mark.

پشاور ڈیوٹ آفیس اور سٹاف کے ایک وقت شائع ہونے والا کثیر الاشاعت قومی روزنامہ

روزانہ کی قیمت: 10 روپے

روزنامہ

پشاور

پاکستان

عبدالواحد ریوٹی

ہند 35، پتہ 27، شعبہ 1445، 19، 2024، 24، مئی، 30، 62

نوٹس غیر حاضری

آپ مسمی حارث، کارپنٹر کلی، سی اینڈ ڈبلیو بلڈنگ ڈویژن مردان مورخہ 07-04-2023 سے اپنی ڈیوٹی سے غیر حاضر ہیں۔ آپ کو بذریعہ نوٹس اطلاع دی جاتی ہے کہ آپ 14 دن کے اندر اپنی ڈیوٹی پر حاضر ہو کر اپنی غیر حاضری کی معقول وجہ بتائیے، بصورت دیگر آپ کے خلاف کارکردگی و انضباطی رولز مجریہ (E&D Rules) کے تحت یکطرفہ کارروائی عمل میں لا کر آپ کو نوکری سے برخاست کیا جاسکتا ہے۔

INF(P)475/2024

ایگزیکٹو ایجنسری سی اینڈ ڈبلیو بلڈنگ ڈویژن مردان

9/3/2024

Attestee



**OFFICE OF THE EXECUTIVE ENGINEER
BUILDING DIVISION MARDAN**

Phone No. 0937-9230668 Fax No. 0937-9230558
Email Address: cwmdnb2013@gmail.com

Annex-VII

14

No. *808/14-E*

Dated Mardan the *25/03/2024*

OFFICE ORDER

WHEREAS Mr. Haris, Carpenter Cooli C&W Building Division Mardan remained absent from government duty since long.

AND WHEREAS, the competent authority has issued notices vide this office No. 2728/6-E dated 07-04-2023, 2743/6-E dated 12-04-2023, 2775/6-E dated 27-04-2023 and final show-cause notice issued through register vide GPO Mardan tracking No. RGL117182658 dated 05-07-2023 and this office No. 2887/6-E dated 30-05-2023 to the said official.

AND WHEREAS, a notice of absentee was also published in the daily newspapers i.e. Aaj Peshawar, Nida E Watan Mardan dated 09-03-2024 vide INFP No. INF/ADVT/475/2024 dated 08-03-2024 but no reply received from the official concerned till date.

AND WHEREAS, no reply received in the light of show-cause notice, the said official call for personal hearing but neither attend this office and not to submit any written statement.

Now therefore in exercise of power conferred under section 4 (b) (iii) Khyber Pakhtunkhwa Govt servants (Efficiency & discipline) Rules, 2011, I, Executive Engineer, C&W Building Division, Mardan being the Competent Authority is pleased to impose major penalty **REMOVAL FROM SERVICE** is hereby imposed upon him.

Copy forwarded to the:

1. The Chief Engineer (Center), C&W Department, Peshawar.
2. The Superintending Engineer, C&W Circle, Mardan.
3. The Sub Divisional Officer, Building Sub Division No. III, Mardan.
4. The Divisional Accounts Officer (Local).
5. Candidate Concerned.

[Signature]
EXECUTIVE ENGINEER

EXECUTIVE ENGINEER

Sys-2/OF-OR

[Signature]



OFFICE OF THE
SUPERINTENDING ENGINEER
C&W CIRCLE MARDAN

No. 1813
Dated Mardan the

Annex-VIII
15
11/B
21/5/2024

REGISTERED

To,

✓
Mr. Muhammad Haris
Son of Alif Gul
Resident of Barat Khel, Babuzai
District Mardan.

P/14

"E"

Attested

SHUFA
Advocate
District Mardan


Subject: DEPARTMENTAL REPRESENTATION/APEAL AGAINST THE OFFICE
ORDER NO. 808/14-E DATED 25-03-2024

Reference: Your appeal dated 19-04-2024.

On receipt of your departmental appeal, the same was forwarded to the Executive Engineer, C&W Building Division Mardan vide this office letter No. 1700/11-E dated 22-04-2024 for detail report.

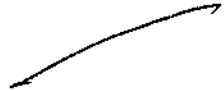
The Executive Engineer, C&W Building Division Mardan vide his letter No. 1058/4-E dated 16-05-2024 submitted detail report vide which it was explained that being competent authority he has imposed major penalty "removal from service" as per existing rules/policy.

Therefore your departmental appeal is hereby rejected.


--SUPERINTENDING ENGINEER

Copy to:

1. The Chief Engineer (Centre), C&W Department Peshawar.
2. The Executive Engineer, C&W Building Division Mardan.


--SUPERINTENDING ENGINEER

Attested